

2013 DRAFTING REQUEST**Bill**

Received: **12/18/2013** Received By: **agary**
 Wanted: **As time permits** Same as LRB: **-4099**
 For: **Chad Weininger (608) 266-5840** By/Representing: **Georgia Maxwell**
 May Contact: Drafter: **agary**
 Subject: **Fin. Inst. - banking inst.** Addl. Drafters:
Fin. Inst. - int. rates/loans Extra Copies:
 Submit via email: **YES**
 Requester's email: **Rep.Weininger@legis.wisconsin.gov**
 Carbon copy (CC) to: **aaron.gary@legis.wisconsin.gov**

Pre Topic:

No specific pre topic given

Topic:

Changes relating to mortgage bankers, mortgage brokers, and mortgage loan originators

Instructions:

See attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	agary 1/21/2014						
/P1		scalvin 1/22/2014	rschluet 1/23/2014		sbasford 1/23/2014		State S&L
/1	agary 1/24/2014	scalvin 1/24/2014	jmurphy 1/23/2014		sbasford 1/23/2014	lparisi 1/23/2014	State S&L
/2			jfrantze		lparisi	lparisi	State

Vers. Drafted

Reviewed

Typed
1/24/2014

Proofed

Submitted
1/24/2014

Jacketed
1/24/2014

Required
S&L

FE Sent For:

1/23/2014 12:00:00 AM

<END>

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/1	agary 1/23/2014	evinz 1/23/2014	jmurphy 1/23/2014		sbasford 1/23/2014	lparisi 1/23/2014	State S&L

1/2 sac 01/24/2014
 1/2 sac 01/24/2014
 RG 1/24
 JB

FE Sent For:

1
1-23-14
Per Alison
from Weininger's
office

<END>

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/P1		scalvin 1/22/2014	rschluet 1/23/2014		sbasford 1/23/2014		State S&L

FE Sent For:

1 eev
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Jm
1/23
<END>

2013 DRAFTING REQUEST

Bill

Received: 12/18/2013

Received By: agary

Wanted: As time permits

Same as LRB:

For: Financial Institutions

By/Representing: Georgia Maxwell

May Contact:

Drafter: agary

Subject: Fin. Inst. - banking inst.
Fin. Inst. - int. rates/loans

Addl. Drafters:

Extra Copies:

Submit via email: YES

Requester's email: Georgia.Maxwell@dfi.wisconsin.gov

Carbon copy (CC) to: aaron.gary@legis.wisconsin.gov

Pre Topic:

No specific pre topic given

1/17 call from Neth -
Speaker's office - → make it
a priority

Topic:

Changes relating to mortgage bankers, mortgage brokers, and mortgage loan originators

Instructions:

See attached

Drafting History:

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1/P1 SAC
01/22/2014

1/P1 SAC
01/22/2014

8
12/13/13

FE Sent For:

<END>

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/?	agary						

FE Sent For:

<END>

Gary, Aaron

From: Maxwell, Georgia E - DFI <Georgia.Maxwell@dfi.wisconsin.gov>
Sent: Wednesday, December 18, 2013 10:59 AM
To: Gary, Aaron
Subject: Mortgage Banking Reform Legislation
Attachments: 224 change 2013 draft 2 change only SF.doc

Hi Aaron-

We would like to have the attached language put into a bill draft. It should be pretty straightforward. Can you tell me approximately how long it will take?

Please let me know if you have any questions.

Thank you,
Georgia

Gary, Aaron

From: Maxwell, Georgia E - DFI <Georgia.Maxwell@dfi.wisconsin.gov>
Sent: Wednesday, December 18, 2013 12:50 PM
To: Gary, Aaron
Subject: Re: Mortgage Banking Reform Legislation

Hi Aaron-

The mortgage banking reform LRB 3853 would be the higher priority.

Thank you!!

Georgia

On Dec 18, 2013, at 12:09 PM, "Gary, Aaron" <Aaron.Gary@legis.wisconsin.gov> wrote:

> Hi Georgia,

> I have entered this request as LRB-3853. I am flooded with drafting requests so I don't expect to get to this until late January or February. Between this draft and the charitable organizations draft for DFI (LRB-3522), which does DFI consider to be the higher priority in terms of drafting timeline?

> Aaron

>

> Aaron R. Gary

> Attorney, Legislative Reference Bureau

> 608.261.6926 (voice)

> 608.264.6948 (fax)

> aaron.gary@legis.state.wi.us

>

> -----Original Message-----

> From: Maxwell, Georgia E - DFI [<mailto:Georgia.Maxwell@dfi.wisconsin.gov>]

> Sent: Wednesday, December 18, 2013 10:59 AM

> To: Gary, Aaron

> Subject: Mortgage Banking Reform Legislation

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> Hi Aaron-

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> We would like to have the attached language put into a bill draft. It should be pretty straightforward. Can you tell me approximately how long it will take?

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> Please let me know if you have any questions.

>

> Thank you,

> Georgia

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224.71

(1br) "Bona fide not for profit" means an organization that:

- (a)** Maintains tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;
- (b)** Promotes affordable housing or provides homeownership education, or similar services;
- (c)** Conducts its activities in a manner that serves public or charitable purposes;
- (d)** Receives funding and revenue and charges fees in a manner that does not incentivize the organization or its employees to act other than in the best interests of its clients;
- (e)** Compensates employees in a manner that does not incentivize employees to act other than in the best interests of its clients;
- (f)** Provides to or identifies for the borrower residential mortgage loans with terms that are favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs; and
- (g)** Is either HUD certified or Wisconsin Housing and Economic Development Authority certified.

224.71

(1c) "Branch office" means an office or place of business, other than the principal office, located in this state or another state, where a mortgage loan originator, mortgage banker or mortgage broker conducts business with residents of this state engages in the mortgage loan business subject to this subchapter.

224.71

- (1f)** "Dwelling" has the meaning given in 15 USC 1602 ~~(v)~~ **(w)**. **OR**
- (1f)** "Dwelling" has the meaning given in 15 USC 1602 ~~(v)~~.

224.71

(1g) "Employee" means an individual whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person, and whose compensation for federal income tax purposes is reported, or required to be reported, on a W-2 form issued by the controlling person.

224.71

(1gh) "Expungement," with respect to a record of criminal conviction entered in this state, means to strike or obliterate from the record all references to the defendant's name and identity. With respect to criminal convictions entered in another state, that state's definition of expungement will apply.

224.71

(1h) "Federal banking agency" means the board of governors of the federal reserve system, the U.S. office of the comptroller of the currency, the U.S. office of thrift supervision, the national credit union administration, or the federal deposit insurance corporation.

224.71

(1r) "Housing finance agency" means any authority:

- (a)** That is chartered by a state to help meet the affordable housing needs of the residents of the state;
- (b)** That is supervised directly or indirectly by the state government; and
- (c)** That is subject to audit and review by the state in which it operates.

224.71

(3)(a) "Mortgage banker" means a person who is not excluded by par. (b) and who does any of the following:

224.71

(3)(b) "Mortgage banker" does not include any of the following:

7. The department of veterans affairs when administering the veterans housing loan program under subch. III of ch. 45.

8. A depository institution.

9. A subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency.

10. An institution regulated by the farm credit administration.

11. A person that only performs real estate brokerage activities and is licensed under s. 452.03, unless the person is compensated by a lender, mortgage broker, or mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage loan originator.

12. A person solely involved in extensions of credit relating to time share plans, as defined in 11 USC 101 (53D).

224.71

(4)(a) — "Mortgage broker" means a person who is not excluded by par. (b) and who, on behalf of a residential mortgage loan applicant or an investor and for commission, money, or other thing of value, finds a residential mortgage loan or negotiates a residential mortgage loan or commitment for a residential mortgage loan or engages in table funding.

224.71

(4)(a) "Mortgage broker" means a person who for compensation or gain, or in the expectation of compensation or gain, does any of the following, but does not make an underwriting decision or close a residential mortgage loan:

1. Assists a person in obtaining or applying to obtain a residential mortgage loan.
2. Holds itself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan.
3. Engages in table funding.

224.71

(4)(b) — "Mortgage broker" does not include any of the following:

4. A depository institution.
5. A subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency.
6. An institution regulated by the farm credit administration.
7. A person that performs real estate brokerage activities only and is licensed under s. 452.03, unless the person is compensated by a lender, mortgage broker, or mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage loan originator.
8. A person solely involved in extensions of credit relating to time share plans, as defined in 11 USC 101 (53D).
9. The department of veterans affairs when administering the veterans housing loan program under subch. III of ch. 45.

224.71

(6)(a) "Mortgage loan originator" means an individual who is not excluded by par. (b) and who, for compensation or gain or in the expectation of compensation or gain, does any of the following:

1. Takes a residential mortgage loan application.
2. Offers or negotiates terms of a residential mortgage loan. An individual offers or negotiates terms of a residential mortgage loan if the individual:
 - a. Discusses, explains or presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms;
 - b. Communicates directly or indirectly with a borrower, or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms; or
 - c. Recommends or refers a borrower or prospective borrower to a particular lender or set of residential mortgage loan terms.

224.71

(6)(b) "Mortgage loan originator" does not include any of the following:

1. An individual engaged solely as a loan processor or underwriter, unless the individual represents to the public, through advertising or another means of communication such as the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.
2. An individual who performs real estate brokerage activities only and is licensed under s. 452.03, unless the individual is compensated by a lender, mortgage broker, or another mortgage loan originator or by any agent of a lender, mortgage broker, or another mortgage loan originator.
3. An individual solely involved in extensions of credit relating to time share plans, as defined in 11 USC 101 (53D).
4. An employee of the department of veterans affairs when engaged in duties related to administering the veterans housing loan program under subch. III of ch. 45.

224.71

(8) "Negotiate," with respect to a residential mortgage loan, means to discuss, explain, or present the terms and conditions, including rates, fees, and other costs, of a residential mortgage loan with or to a residential mortgage loan applicant, but does not include making an underwriting decision on a residential mortgage loan or closing a residential mortgage loan.

224.71

(11m) "Person" means a natural person, and includes all partnerships, associations and bodies politic or corporate.

224.71

(13b) "Registered entity" means a depository institution that voluntarily registers with the division for the purpose of sponsoring licensed mortgage loan originators that are under the depository institution's direct supervision and control.

224.71

(13g) "Registered mortgage loan originator" means any individual who is all of the following:

- (a) An employee of, and acting for, a depository institution, a subsidiary owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration.
- (b) Registered with, and who maintains a unique identifier through, the nationwide mortgage licensing system and registry.

224.71

(13m) "Regularly engage" means an individual who:

- (a) Engaged in the business of a mortgage loan originator on more than 5 residential mortgage loans, in this state or another state, in the previous calendar year or who expects to engage in the business of a mortgage loan originator on more than 5 residential mortgage loans, in this state or another state, in the current calendar year; or
- (b) Is acting on behalf of a person who is, or is required to be, licensed as a mortgage lender, mortgage banker, or mortgage broker in this state, or another state; or
- (c) Is acting on behalf of a registered entity.

224.72

(1m) LICENSE REQUIRED. Except as provided in para. (1r), a person may not conduct business or act as a mortgage banker or mortgage broker, use the title "mortgage banker" or "mortgage broker," or advertise or otherwise portray himself, herself, or itself as a mortgage banker or mortgage broker, unless the person has been issued a mortgage banker or mortgage broker license by the division.

224.72

(1r) EXEMPTIONS. The following persons shall not be required to be licensed under this section, or comply with the other provisions of this section.

1. A depository institution.
2. A subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency.
3. A federal, state, or local government agency or housing finance agency.
4. An institution regulated by the farm credit administration.
5. A bona fide not for profit entity that does not operate in a commercial context and that possesses a valid exemption from the division. To qualify for an exemption under this subsection, an entity must certify, on a form prescribed by the division, that they are a bona fide not for profit entity, as defined in s. 224.71(1br), and must provide documentation as required by the division. To maintain this exemption, the entity must file the prescribed certification and accompanying documentation with the division by December 31st of each year.
6. A mortgage banker who meets all of the following:
 - (a) Engaged in the business of a mortgage banker on 5 or fewer residential mortgage loans during the previous calendar year.
 - (b) Expects to serve as the prospective source of financing, or perform other phases of originations, or servicing, on 5 or fewer residential mortgage loans in the current calendar year.

(c) Does not advertise or otherwise hold himself, herself, or itself out as a "mortgage banker."

7. A person that only performs real estate brokerage activities and is licensed under s. 452.03, unless the person is compensated by a lender, mortgage broker, or mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage loan originator.

8. A person solely involved in extensions of credit relating to time-share plans, as defined in 11 USC 101 (53D).

224.72

(2)(c)1. Except as provided in par. (d), an application shall include the following:

a. In the case of an individual, the individual's social security number.

b. In the case of a person that is not an individual, the person's federal employer identification number.

2. The department division may not disclose any information received under subd. 1. to any person except as follows:

a. The department division may disclose information under subd. 1. to the department of revenue for the sole purpose of requesting certifications under s. 73.0301.

b. The department division may disclose information under subd. 1. a. to the department of children and families in accordance with a memorandum of understanding under s. 49.857.

224.72(2m)

(a) Each mortgage banker or mortgage broker shall obtain and maintain a license for its principal office and a separate license for each branch office.

(b) A principal office shall be located in either this state, or another state, as defined in s. 224.71(1bm). A principal office shall not be located in a residence.

(c) A branch office shall be located in either this state, or another state, as defined in s. 224.71(1bm). A branch office may be located in a residence.

224.72

(4)(a)2. File with the division a commercial surety bond which is in the amount of \$300,000 for a mortgage banker or \$120,000 for a mortgage broker, is issued by a surety company authorized to do business in this state, secures the applicant's faithful performance of all duties and obligations of a mortgage banker or mortgage broker, is payable to the division for the benefit of persons to whom the mortgage banker or mortgage broker provided services as a mortgage banker or mortgage broker, is issued on a form that is acceptable to the division and provides that the bond may not be terminated without at least 30 60 days' written notice to the division.

224.72

~~(4n) SECURITY HELD BY THE DIVISION; RELEASE. The division or its agent shall hold security filed under s. 224.72 (4) (a) 3., 2007 stats., and s. 224.72 (4m) (a) 2., 2007 stats. The security shall remain in effect, and the division may not release it, until all of the following conditions are met:~~

~~(a) A period of 180 days has elapsed since at least one of the following:~~

~~1. The date on which the mortgage banker or mortgage broker gives notice to the division that the mortgage banker or mortgage broker is no longer acting as a mortgage banker or mortgage broker.~~

~~2. The date on which the mortgage banker's or mortgage broker's license expires or is revoked.~~

~~(b) The division determines that the mortgage banker or mortgage broker is no longer in business.~~

~~(c) The division determines that all claims of persons to whom the mortgage banker or mortgage broker provided services as a mortgage banker or mortgage broker have been satisfied.~~

224.722 Registered Entities.

(1) A depository institution shall apply for registered entity status with the division, on forms and in the manner prescribed by the division, and shall pay the fee specified by the division. Such application shall be accompanied by a commercial surety bond in the amount of \$300,000 that is issued by a surety company authorized to do business in this state and is written on a form that is acceptable to the division.

(2) Upon the filing of an application for registered entity status and the payment of the required fee, the division shall make an investigation of the applicant. If the application is complete, and the division has no concerns

regarding the applicant's character, general fitness or financial responsibility, the division shall register the applicant as a registered entity.

(3) Each registered entity shall obtain and maintain a branch license for each location where a mortgage loan originator sponsored by the registered entity engages in business as a mortgage loan originator.

(4) A registered entity shall increase its surety bond by \$10,000 for each licensed branch location when the number of its branch locations exceeds five.

(5) A depository institution's registered entity status expires on December 31 of each year.

(6) A registered entity may apply to renew its registered entity status by timely submitting, on forms and in the manner prescribed by the division, a completed renewal application and all required renewal fees. The division may not renew a registered entity status under this section unless the division finds that the registered entity continues to meet the minimum standards for such registration.

(7) If a registered entity fails satisfy the minimum standards for renewal of its registration, its registration shall expire.

(8) A registered entity shall cooperate with, and provide access to records and documents required by, the division to carry out examinations in accordance with s. 224.74(2) of mortgage loan originators that are sponsored by the registered entity.

224.725

(1) LICENSE REQUIRED. Except as provided in subs. (2) s. 224.726, an individual may not regularly engage in the business of a mortgage loan originator with respect to a residential mortgage loan, or use the title "mortgage loan originator," advertise, or otherwise portray himself or herself as a mortgage loan originator in this state, unless the individual has been issued by the division, and thereafter maintains, a license under this section. Each licensed mortgage loan originator shall register with, and maintain a valid unique identifier issued by, the nationwide mortgage licensing system and registry.

224.725

(2) EXEMPTIONS. The following individuals shall not be required to be licensed under this section.

(a) A registered mortgage loan originator.

(b) An employee of a federal, state, or local government agency or housing finance agency who acts as a mortgage loan originator only pursuant to his or her official duties as an employee of the federal, state, or local government agency or housing finance agency.

(c) An individual engaged solely as a loan processor or underwriter, unless that person is an independent contractor or unless the individual represents to the public, through advertising or another means of communication such as the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

(d) An individual who performs real estate brokerage activities only and is licensed under s. 452.03, unless the individual is compensated by a lender, mortgage broker, or another mortgage loan originator or by any agent of a lender, mortgage broker, or another mortgage loan originator.

(e) An individual solely involved in extensions of credit relating to time-share plans, as defined in 11 USC 101 (53D).

(f) An employee of a bona fide not for profit organization who only acts as a mortgage loan originator with respect to:

1. his or her work duties to the bona fide not for profit organization, and

2. residential mortgage loans with terms that are favorable to the borrower.

(g) A licensed attorney who undertakes activities that are covered by the definition of mortgage loan originator provided that

1. Such activities are considered by the Wisconsin Supreme Court to be part of the authorized practice of law within Wisconsin;

2. Such activities are carried out within an attorney-client relationship; and

3. The attorney carries out the activities in compliance with all applicable laws, rules, ethics and standards.

224.725

(2f) LICENSE APPLICATIONS.

224.725

~~(2)(d)~~ Any applicant for a residential mortgage loan originator license shall include in the application the name of the mortgage banker or mortgage broker who will employ the residential mortgage loan originator.

224.725

~~(3)(b)~~ The applicant has not been convicted of, or pled guilty or no contest to, a felony in a domestic, foreign, or military court during the 7-year period preceding the date of the application or, for a felony involving an act of fraud, dishonesty, breach of trust, or money laundering, at any time preceding the date of the application. ~~This paragraph does not apply with~~ With respect to any conviction for which the applicant has received a pardon or expungement of conviction, such pardoned or expunged conviction will not result in an automatic denial or revocation of a mortgage loan originator license. The division may consider the underlying crime, facts, or circumstances of a pardoned or expunged felony conviction when determining the eligibility of an applicant for licensure under this paragraph and para. (c).

224.725

~~(4)(a)~~ Each mortgage loan originator shall be covered by a surety bond in accordance with this subsection. A surety bond of a mortgage banker, ~~or mortgage broker,~~ or registered entity meeting the requirements of par. (b) and s. 224.72 (4) (a) 2. or s. 224.722(1) and (4) may satisfy the requirement under this paragraph for a mortgage loan originator who, ~~under sub. (2) (d), identifies himself or herself as employed~~ is sponsored by the mortgage banker ~~or mortgage broker,~~ or registered entity.

~~224.726 — Persons exempt from mortgage loan originator provisions.~~ The provisions of this subchapter relating to mortgage loan originators do not apply to any of the following:

~~(1) Any individual who meets the definition of mortgage loan originator and who is all of the following:~~

~~(a) An employee of, and acting for, a depository institution, a subsidiary owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration.~~

~~(b) Registered with, and who maintains a unique identifier through, the nationwide mortgage licensing system and registry.~~

~~(2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of the individual's spouse, child, sibling, parent, grandparent, or grandchild, including any stepparent, stepchild, stepsibling, or adoptive relationship.~~

~~(3) Any person who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence.~~

~~(4) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, mortgage broker, or mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage loan originator.~~

224.73

~~(1)~~ RESPONSIBILITY FOR MORTGAGE LOAN ORIGINATOR. A mortgage banker, ~~or mortgage broker,~~ or registered entity is responsible for, and shall supervise the acts of, a mortgage loan originator or any other person who otherwise acts on behalf of the mortgage banker, ~~or mortgage broker,~~ or registered entity.

224.73

(2)(a) If the division suspends or revokes a mortgage banker's or mortgage broker's license, or a registered entity's registration, a mortgage loan originator may not act on behalf of that mortgage banker, or mortgage broker, or registered entity during the period of suspension or revocation.

224.73

(2)(b) A mortgage loan originator may act on behalf of only the mortgage banker, or mortgage broker, or registered entity with which that mortgage loan originator's license is associated in the records of the division, as designated under s. 224.725 (2) (d). A mortgage loan originator's license may only be associated with one mortgage banker, or mortgage broker, or registered entity at a time.

224.73

(3)(a) A licensed mortgage loan originator may apply, on forms and in the manner prescribed by the division, to transfer association to another licensed mortgage banker or mortgage broker or a registered entity. The division shall promulgate rules establishing a fee for a transfer application under this subsection.

224.73

(3)(b) A mortgage loan originator may not act on behalf of a mortgage banker, or mortgage broker, or registered entity until the mortgage loan originator's license association has been transferred to that mortgage banker, or mortgage broker, or registered entity in the records of the division.

224.73

(4) MORTGAGE LOAN ORIGINATOR SIGNATURES AND UNIQUE IDENTIFIERS.

(a) Every residential mortgage loan application shall be signed by a licensed mortgage loan originator or by a mortgage loan originator exempt from licensing under s. 224.726 (1).

(b) Any person originating a residential mortgage loan shall clearly place the person's unique identifier on all residential mortgage loan application forms, solicitations, and advertisements, including business cards or Web sites, and on all other documents specified by rule of the division.

(4) MORTGAGE LOAN ORIGINATORS AND BRANCH OFFICES

(a) A mortgage loan originator shall be assigned to and work out of a licensed office of the sponsoring mortgage banker, mortgage broker, or registered entity. The licensed office must either be the mortgage loan originator's residence or be within 100 miles of the mortgage loan originator's residence.

(b) Each mortgage banker or registered entity branch location that originates residential mortgage loans for itself or for another person, and each mortgage broker branch office, shall have at least one licensed mortgage loan originator assigned to and working out of the office.

(c) Any individual identified in the records of the division or the mortgage banker, mortgage broker, or registered entity as a branch manager for a mortgage banker or registered entity branch office that originates residential mortgage loans for itself or for another person, or a mortgage broker branch office, must be licensed as a mortgage loan originator.

224.74

(1)(a) Annual Mortgage call report. Each year, by the date and in the form required by the nationwide mortgage licensing system and registry, each mortgage banker, mortgage broker, registered entity, and mortgage loan originator licensed under this subchapter shall submit to the nationwide mortgage licensing system and registry an annual reports of condition, which shall be in such form and shall contain such information as the nationwide mortgage licensing system and registry may require.

224.74

(1)(b) Audit requirement – Mortgage bankers. Each year, no later than 6 months following the end of its most recently completed fiscal year, each mortgage banker or mortgage broker shall submit a copy of an audit of the mortgage banker's or mortgage broker's operations during that fiscal year. An audit under this paragraph shall be conducted by an independent certified public accountant in accordance with generally accepted auditing

standards. The financial statements in the audit report shall be prepared in accordance with generally accepted accounting principles.

224.74

(1)(bm) Reviewed Financial Statements – Mortgage brokers. Each year, no later than 6 months following the end of its most recently completed fiscal year, each mortgage broker shall submit a copy of the mortgage broker's reviewed financial statements for the mortgage broker's operations during that fiscal year. The reviewed financial statements shall include a balance sheet, an income statement, and a written statement by an independent certified public accountant attesting that he or she has conducted his or her review in accordance with generally accepted accounting principles and AICPA professional standards.

224.75

(2) PERIOD OF RECORD RETENTION. A mortgage banker or mortgage broker shall keep for at least 36 months, in an office of the mortgage banker or mortgage broker licensed under this subchapter, but that is not located in a residence, all books and records that, in the opinion of the division, will enable the division to determine whether the mortgage banker or mortgage broker is in compliance with the provisions of this subchapter. These books and records include copies of all deposit receipts, canceled checks, trust account records, the records which a mortgage banker or mortgage broker maintains under sub. (1) (c) or (d), and other relevant documents or correspondence received or prepared by the mortgage banker or mortgage broker in connection with a residential mortgage loan or residential mortgage loan application. The retention period begins on the date the residential mortgage loan is closed or, if the loan is not closed, the date of loan application. If the residential mortgage loan is serviced by a mortgage banker, the retention period commences on the date that the loan is paid in full.

224.755

(4)(d) An individual may ~~retake~~ a test 3 consecutive times, with each retest occurring at least ~~retaken no less than~~ 30 days after the preceding test. If the individual fails 3 consecutive tests, the individual may not retake a test again for at least 6 months.

224.755

(4)(e) If an individual previously licensed as a mortgage loan originator fails to maintain a valid license for a period of 5 years or longer, not taking into account any time during which such individual is a registered loan originator, the individual shall retake the test under par. (a). ~~For purposes of determining the 5 year period, the division shall not consider any period during which the individual is exempt from licensing under s. 224.726 (1).~~

224.77

(1)(f) Accept a commission, money, or other thing of value for performing an act as a mortgage loan originator unless the payment is from a the mortgage banker, or mortgage broker, or registered entity with whom the mortgage loan originator's license is associated, as identified in the records of the division at the time the act is performed.

224.77

(1)(fg) As a mortgage banker, or mortgage broker, or registered entity, pay a commission, money, or other thing of value to any person for performing an act as a mortgage loan originator unless the mortgage loan originator's license is associated with the mortgage banker, or mortgage broker, or registered entity in the records of the division at the time the act is performed.

224.77

(1)(g) As a mortgage loan originator, represent or attempt to represent a mortgage banker, or mortgage broker, or registered entity other than the mortgage banker, or mortgage broker, or registered entity with whom the mortgage loan originator's license was associated, as identified in the records of the division at the time the representation or attempted representation occurs.

224.77

(1)(gd) As a mortgage banker, ~~or mortgage broker~~, or registered entity, permit a person who is not licensed under this subchapter to act as a mortgage loan originator on behalf of the mortgage banker, ~~or mortgage broker~~, or registered entity.

224.77

(1)(gh) As a mortgage banker, ~~or mortgage broker~~, or registered entity, permit a person whose mortgage loan originator license is not associated in the records of the division with the mortgage banker, ~~or mortgage broker~~, or registered entity to act as a mortgage loan originator on behalf of the mortgage banker, ~~or mortgage broker~~, or registered entity.

224.77

(1)(sm) As a mortgage loan originator, fail to identify his or her name and sign the mortgage loan application for a loan originated by such mortgage loan originator.

224.77

(1)(sn) As a mortgage banker, mortgage broker, or mortgage loan originator, fail to clearly place his, her, or its unique identifier on all residential mortgage loan application forms, solicitations, and advertisements, including business cards, Web sites, email signature blocks, and on all other documents specified by rule of the division.

224.77

(1)(sq) As a mortgage banker, mortgage broker, or mortgage loan originator, use any solicitation or advertisement that:

1. Misrepresents that the provider is, or is affiliated with, any governmental entity or other organization; or
2. Misrepresents that the product is or relates to a government benefit, or is endorsed, sponsored by, or affiliated with any government or other program, including but not limited to through the use of formats, symbols, or logos that resemble those of such entity, organization, or program; or
3. Does not clearly and conspicuously identify the name of the mortgage broker or mortgage banker.

224.77

(2m)(a)1. In addition to any other authority provided to the division under this subchapter, if the division finds that a mortgage banker, mortgage loan originator, or mortgage broker has violated any provision of this subchapter or any rule promulgated by the division under this subchapter, or a registered entity has violated any applicable provision of this subchapter, the division may do any of the following:

- a. Deny any application for initial issuance or renewal of a license or registration.
- b. Revoke, suspend, limit, or condition any license of the mortgage banker, registered entity, mortgage loan originator, or mortgage broker.

~~224.83 — Loan processors and underwriters.~~ An individual engaging solely in loan processor or underwriter activities may not represent to the public, through advertising or another means of communication such as the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

Gary, Aaron

From: Maxwell, Georgia E - DFI <Georgia.Maxwell@dfi.wisconsin.gov>
Sent: Friday, January 17, 2014 12:26 PM
To: Gary, Aaron
Cc: Hughes, Patrick - GOV; Schacht, Nathan
Subject: FW: Mortgage Banking Reform Legislation

Hi Aaron -

We would like this draft to be reassigned to Representative Chad Weininger.
Please let me know if you have any questions.

Thank you,
Georgia

Georgia E. Maxwell
Assistant Deputy Secretary
Wisconsin Department of Financial Institutions
201 W. Washington Avenue, Suite 500
Madison, WI 53708
Direct: 608-267-1718
Email: Georgia.Maxwell@wisconsin.gov

-----Original Message-----

From: Gary, Aaron [<mailto:Aaron.Gary@legis.wisconsin.gov>]
Sent: Wednesday, December 18, 2013 12:09 PM
To: Maxwell, Georgia E - DFI
Subject: RE: Mortgage Banking Reform Legislation

Hi Georgia,

I have entered this request as LRB-3853. I am flooded with drafting requests so I don't expect to get to this until late January or February. Between this draft and the charitable organizations draft for DFI (LRB-3522), which does DFI consider to be the higher priority in terms of drafting timeline?

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

-----Original Message-----

From: Maxwell, Georgia E - DFI [<mailto:Georgia.Maxwell@dfi.wisconsin.gov>]
Sent: Wednesday, December 18, 2013 10:59 AM
To: Gary, Aaron
Subject: Mortgage Banking Reform Legislation

Hi Aaron-

Gary, Aaron

From: Zikmund, Alison
Sent: Tuesday, January 21, 2014 10:06 AM
To: Gary, Aaron
Subject: FW: Mortgage bill changes
Attachments: 224 change 2013 draft 3 .doc

Aaron,

Will you please add the changes in green in the attached document to LRB-3853? Rep. Weininger will now be the lead author on this proposal.

Thank you!

Alison Zikmund
Office of Rep. Chad Weininger
(608) 266-1184

From: Schacht, Nathan
Sent: Tuesday, January 21, 2014 9:52 AM
To: Zikmund, Alison
Subject: Mortgage bill changes

Everything in green needs to be added to mortgage bill.

Nathan Schacht
Office of State Representative David Craig

224.71

(1br) "Bona fide not for profit" means an organization that:

- (a)** Maintains tax-exempt status under section 501(c)(3) of the Internal Revenue Code of 1986;
- (b)** Promotes affordable housing or provides homeownership education, or similar services;
- (c)** Conducts its activities in a manner that serves public or charitable purposes;
- (d)** Receives funding and revenue and charges fees in a manner that does not incentivize the organization or its employees to act other than in the best interests of its clients;
- (e)** Compensates employees in a manner that does not incentivize employees to act other than in the best interests of its clients;
- (f)** Provides to or identifies for the borrower residential mortgage loans with terms that are favorable to the borrower and comparable to mortgage loans and housing assistance provided under government housing assistance programs; and
- (g)** Is either HUD certified or Wisconsin Housing and Economic Development Authority certified.

224.71

(1c) "Branch office" means an office or place of business, other than the principal office, located in this state or another state, where a mortgage loan originator, mortgage banker or mortgage broker conducts business with residents of this state engages in the mortgage loan business subject to this subchapter.

224.71

- (1f)** "Dwelling" has the meaning given in 15 USC 1602 (v) (w). OR
- (1f)** "Dwelling" has the meaning given in 15 USC 1602 (v).

224.71

(1g) "Employee" means an individual whose manner and means of performance of work are subject to the right of control of, or are controlled by, a person, and whose compensation for federal income tax purposes is reported, or required to be reported, on a W-2 form issued by the controlling person.

224.71

(1gh) "Expungement," with respect to a record of criminal conviction entered in this state, means to strike or obliterate from the record all references to the defendant's name and identity. With respect to criminal convictions entered in another state, that state's definition of expungement will apply.

224.71

(1h) "Federal banking agency" means the board of governors of the federal reserve system, the U.S. office of the comptroller of the currency, the U.S. office of thrift supervision, the national credit union administration, or the federal deposit insurance corporation.

224.71

- (1r)** "Housing finance agency" means any authority:
- (a)** That is chartered by a state to help meet the affordable housing needs of the residents of the state;
 - (b)** That is supervised directly or indirectly by the state government; and
 - (c)** That is subject to audit and review by the state in which it operates.

224.71

(3)(a) "Mortgage banker" means a person who is not excluded by par. (b) and who does any of the following:

224.71

(3)(b) "Mortgage banker" does not include any of the following:

- ~~7. The department of veterans affairs when administering the veterans housing loan program under subch. III of ch. 45.~~
- ~~8. A depository institution.~~
- ~~9. A subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency.~~
- ~~10. An institution regulated by the farm credit administration.~~

11. A person that only performs real estate brokerage activities and is licensed under s. 452.03, unless the person is compensated by a lender, mortgage broker, or mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage loan originator;

12. A person solely involved in extensions of credit relating to time share plans, as defined in 11 USC 101 (53D).

224.71

(4)(a) — "Mortgage broker" means a person who is not excluded by par. (b) and who, on behalf of a residential mortgage loan applicant or an investor and for commission, money, or other thing of value, finds a residential mortgage loan or negotiates a residential mortgage loan or commitment for a residential mortgage loan or engages in table funding.

224.71

(4)(a) "Mortgage broker" means a person who for compensation or gain, or in the expectation of compensation or gain, does any of the following, but does not make an underwriting decision or close a residential mortgage loan:

1. Assists a person in obtaining or applying to obtain a residential mortgage loan.
2. Holds itself out as being able to assist a person in obtaining or applying to obtain a residential mortgage loan.
3. Engages in table funding.

224.71

(4)(b) — "Mortgage broker" does not include any of the following:

4. A depository institution;
5. A subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency;
6. An institution regulated by the farm credit administration;
7. A person that performs real estate brokerage activities only and is licensed under s. 452.03, unless the person is compensated by a lender, mortgage broker, or mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage loan originator;
8. A person solely involved in extensions of credit relating to time share plans, as defined in 11 USC 101 (53D).
9. The department of veterans affairs when administering the veterans housing loan program under subch. III of ch. 45.

224.71

(6)(a) "Mortgage loan originator" means an individual who is not excluded by par. (b) and who, for compensation or gain or in the expectation of compensation or gain, does any of the following:

1. Takes a residential mortgage loan application.
2. Offers or negotiates terms of a residential mortgage loan. An individual offers or negotiates terms of a residential mortgage loan if the individual:
 - a. Discusses, explains or presents for consideration by a borrower or prospective borrower particular residential mortgage loan terms;
 - b. Communicates directly or indirectly with a borrower, or prospective borrower for the purpose of reaching a mutual understanding about prospective residential mortgage loan terms; or
 - c. Recommends or refers a borrower or prospective borrower to a particular lender or set of residential mortgage loan terms.

224.71

(6)(b) "Mortgage loan originator" does not include any of the following:

1. An individual engaged solely as a loan processor or underwriter, unless the individual represents to the public, through advertising or another means of communication such as the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.
2. An individual who performs real estate brokerage activities only and is licensed under s. 452.03, unless the individual is compensated by a lender, mortgage broker, or another mortgage loan originator or by any agent of a lender, mortgage broker, or another mortgage loan originator.
3. An individual solely involved in extensions of credit relating to time share plans, as defined in 11 USC 101 (53D).
4. An employee of the department of veterans affairs when engaged in duties related to administering the veterans housing loan program under subch. III of ch. 45.

224.71

(8) "Negotiate," with respect to a residential mortgage loan, means to discuss, explain, or present the terms and conditions, including rates, fees, and other costs, of a residential mortgage loan with or to a residential mortgage loan applicant, but does not include making an underwriting decision on a residential mortgage loan or closing a residential mortgage loan.

224.71

(11m) "Person" means a natural person, and includes all partnerships, associations and bodies politic or corporate.

224.71

(13b) "Registered entity" means a depository institution that voluntarily registers with the division for the purpose of sponsoring licensed mortgage loan originators that are under the depository institution's direct supervision and control.

224.71

(13g) "Registered mortgage loan originator" means any individual who is all of the following:

- (a) An employee of, and acting for, a depository institution, a subsidiary owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration.
- (b) Registered with, and who maintains a unique identifier through, the nationwide mortgage licensing system and registry.

224.71

(13m) "Regularly engage" means an individual who:

- (a) Engaged in the business of a mortgage loan originator on more than 5 residential mortgage loans, in this state or another state, in the previous calendar year or who expects to engage in the business of a mortgage loan originator on more than 5 residential mortgage loans, in this state or another state, in the current calendar year; or
- (b) Is acting on behalf of a person who is, or is required to be, licensed as a mortgage lender, mortgage banker, or mortgage broker in this state, or another state; or
- (c) Is acting on behalf of a registered entity.

224.72

(1m) LICENSE REQUIRED. Except as provided in para. (1r), a person may not conduct business or act as a mortgage banker or mortgage broker, use the title "mortgage banker" or "mortgage broker," or advertise or otherwise portray himself, herself, or itself as a mortgage banker or mortgage broker, unless the person has been issued a mortgage banker or mortgage broker license by the division.

224.72

(1r) EXEMPTIONS. The following persons shall not be required to be licensed under this section, or comply with the other provisions of this section.

1. A depository institution.
2. A subsidiary that is owned and controlled by a depository institution and regulated by a federal banking agency.
3. A federal, state, or local government agency or housing finance agency.
4. An institution regulated by the farm credit administration.
5. A bona fide not for profit entity that does not operate in a commercial context and that possesses a valid exemption from the division. To qualify for an exemption under this subsection, an entity must certify, on a form prescribed by the division, that they are a bona fide not for profit entity, as defined in s. 224.71(1br), and must provide documentation as required by the division. To maintain this exemption, the entity must file the prescribed certification and accompanying documentation with the division by December 31st of each year.
6. A mortgage banker who meets all of the following:
 - (a) Engaged in the business of a mortgage banker on 5 or fewer residential mortgage loans during the previous calendar year.
 - (b) Expects to serve as the prospective source of financing, or perform other phases of originations, or servicing, on 5 or fewer residential mortgage loans in the current calendar year.

(c) Does not advertise or otherwise hold himself, herself, or itself out as a "mortgage banker."

7. A person that only performs real estate brokerage activities and is licensed under s. 452.03, unless the person is compensated by a lender, mortgage broker, or mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage loan originator.

8. A person solely involved in extensions of credit relating to time-share plans, as defined in 11 USC 101 (53D).

224.72

(2)(c)1. Except as provided in par. (d), an application shall include the following:

a. In the case of an individual, the individual's social security number.

b. In the case of a person that is not an individual, the person's federal employer identification number.

2. The department division may not disclose any information received under subd. 1. to any person except as follows:

a. The department division may disclose information under subd. 1. to the department of revenue for the sole purpose of requesting certifications under s. 73.0301.

b. The department division may disclose information under subd. 1. a. to the department of children and families in accordance with a memorandum of understanding under s. 49.857.

224.72(2m)

(a) Each mortgage banker or mortgage broker shall obtain and maintain a license for its principal office and a separate license for each branch office.

(b) A principal office shall be located in either this state, or another state, as defined in s. 224.71(1bm). A principal office shall not be located in a residence.

(c) A branch office shall be located in either this state, or another state, as defined in s. 224.71(1bm). A branch office may be located in a residence.

224.72

(4)(a)2. File with the division a commercial surety bond which is in the amount of \$300,000 for a mortgage banker or \$120,000 for a mortgage broker, is issued by a surety company authorized to do business in this state, secures the applicant's faithful performance of all duties and obligations of a mortgage banker or mortgage broker, is payable to the division for the benefit of persons to whom the mortgage banker or mortgage broker provided services as a mortgage banker or mortgage broker, is issued on a form that is acceptable to the division and provides that the bond may not be terminated without at least ~~30~~ 60 days' written notice to the division.

224.72

~~(4n) SECURITY HELD BY THE DIVISION; RELEASE. The division or its agent shall hold security filed under s. 224.72 (4) (a) 3., 2007 stats., and s. 224.72 (4m) (a) 2., 2007 stats. The security shall remain in effect, and the division may not release it, until all of the following conditions are met:~~

~~(a) A period of 180 days has elapsed since at least one of the following:~~

~~1. The date on which the mortgage banker or mortgage broker gives notice to the division that the mortgage banker or mortgage broker is no longer acting as a mortgage banker or mortgage broker.~~

~~2. The date on which the mortgage banker's or mortgage broker's license expires or is revoked.~~

~~(b) The division determines that the mortgage banker or mortgage broker is no longer in business.~~

~~(c) The division determines that all claims of persons to whom the mortgage banker or mortgage broker provided services as a mortgage banker or mortgage broker have been satisfied.~~

224.722 Registered Entities.

(1) A depository institution shall apply for registered entity status with the division, on forms and in the manner prescribed by the division, and shall pay the same fee as that established by rule under s. 224.72(8) for mortgage bankers. Such application shall be accompanied by a commercial surety bond in the amount of \$300,000 that is issued by a surety company authorized to do business in this state and is written on a form that is acceptable to the division.

(2) Upon the filing of an application for registered entity status and the payment of the required fee, the division shall make an investigation of the applicant. If the application is complete, and the division has no concerns

regarding the applicant's character, general fitness or financial responsibility, the division shall register the applicant as a registered entity.

(3) Each registered entity shall obtain and maintain a branch office registration for each location where a mortgage loan originator sponsored by the registered entity engages in business as a mortgage loan originator. Applications for branch registrations shall be made on forms and in the manner prescribed by the division, and shall be accompanied by the same fee as that established by rule under s. 224.72(8) for branch offices.

(4) The registered entity status of a depository institution, and all of its registered branch offices, expires on December 31 of each year.

(5) A registered entity may apply to renew its entity and branch office registrations by timely submitting, on forms and in the manner prescribed by the division, completed renewal applications for the entity and each branch office location. Such applications shall be accompanied by the same fee as that established by rule under s. 224.72(8) for mortgage bankers and branch offices. The division may not renew a registered entity status under this section unless the division finds that the registered entity continues to meet the minimum standards for such registration.

(6) If a registered entity fails to satisfy the minimum standards for renewal of its entity registration, or of any of its branch registrations, such registration shall expire.

(7) A registered entity shall cooperate with, and provide access to records and documents required by, the division to carry out examinations in accordance with s. 224.74(2) of mortgage loan originators that are sponsored by the registered entity.

224.725

(1) LICENSE REQUIRED. Except as provided in subs. (2) s. 224.726, an individual may not regularly engage in the business of a mortgage loan originator with respect to a residential mortgage loan, or use the title "mortgage loan originator," advertise, or otherwise portray himself or herself as a mortgage loan originator in this state, unless the individual has been issued by the division, and thereafter maintains, a license under this section. Each licensed mortgage loan originator shall register with, and maintain a valid unique identifier issued by, the nationwide mortgage licensing system and registry.

224.725

(2) EXEMPTIONS. The following individuals shall not be required to be licensed under this section.

(a) A registered mortgage loan originator.

(b) An employee of a federal, state, or local government agency or housing finance agency who acts as a mortgage loan originator only pursuant to his or her official duties as an employee of the federal, state, or local government agency or housing finance agency.

(c) An individual engaged solely as a loan processor or underwriter, unless that person is an independent contractor or unless the individual represents to the public, through advertising or another means of communication such as the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.

(d) An individual who performs real estate brokerage activities only and is licensed under s. 452.03, unless the individual is compensated by a lender, mortgage broker, or another mortgage loan originator or by any agent of a lender, mortgage broker, or another mortgage loan originator.

(e) An individual solely involved in extensions of credit relating to time-share plans, as defined in 11 USC 101 (53D).

(f) An employee of a bona fide not for profit organization who only acts as a mortgage loan originator with respect to:

1. his or her work duties to the bona fide not for profit organization, and
2. residential mortgage loans with terms that are favorable to the borrower.

(g) A licensed attorney who undertakes activities that are covered by the definition of mortgage loan originator provided that

1. Such activities are considered by the Wisconsin Supreme Court to be part of the authorized practice of law within Wisconsin;
2. Such activities are carried out within an attorney-client relationship; and

3. The attorney carries out the activities in compliance with all applicable laws, rules, ethics and standards.

224.725

(2r) LICENSE APPLICATIONS.

224.725

~~(2)(d)~~ Any applicant for a residential mortgage loan originator license shall include in the application the name of the mortgage banker or mortgage broker who will employ the residential mortgage loan originator.

224.725

(3)(b) The applicant has not been convicted of, or pled guilty or no contest to, a felony in a domestic, foreign, or military court during the 7-year period preceding the date of the application or, for a felony involving an act of fraud, dishonesty, breach of trust, or money laundering, at any time preceding the date of the application. ~~This paragraph does not apply with~~ With respect to any conviction for which the applicant has received a pardon or expungement of conviction, such pardoned or expunged conviction will not result in an automatic denial or revocation of a mortgage loan originator license. The division may consider the underlying crime, facts, or circumstances of a pardoned or expunged felony conviction when determining the eligibility of an applicant for licensure under this paragraph and para. (c).

224.725

(4)(a) Each mortgage loan originator shall be covered by a surety bond in accordance with this subsection. A surety bond of a mortgage banker, or mortgage broker, or registered entity meeting the requirements of par. (b) and s. 224.72 (4) (a) 2. or s. 224.722(1) may satisfy the requirement under this paragraph for a mortgage loan originator who, under sub. (2) (d), identifies himself or herself as employed is sponsored by the mortgage banker, or mortgage broker, or registered entity.

224.726 — Persons exempt from mortgage loan originator provisions. The provisions of this subchapter relating to mortgage loan originators do not apply to any of the following:

(1) Any individual who meets the definition of mortgage loan originator and who is all of the following:

(a) An employee of, and acting for, a depository institution, a subsidiary owned and controlled by a depository institution and regulated by a federal banking agency, or an institution regulated by the farm credit administration.

(b) Registered with, and who maintains a unique identifier through, the nationwide mortgage licensing system and registry.

(2) Any individual who offers or negotiates terms of a residential mortgage loan with or on behalf of the individual's spouse, child, sibling, parent, grandparent, or grandchild, including any stepparent, stepchild, stepsibling, or adoptive relationship.

(3) Any person who offers or negotiates terms of a residential mortgage loan secured by a dwelling that served as the individual's residence.

(4) A licensed attorney who negotiates the terms of a residential mortgage loan on behalf of a client as an ancillary matter to the attorney's representation of the client, unless the attorney is compensated by a lender, mortgage broker, or mortgage loan originator or by any agent of a lender, mortgage broker, or mortgage loan originator.

224.73

(1) RESPONSIBILITY FOR MORTGAGE LOAN ORIGINATOR. A mortgage banker, or mortgage broker, or registered entity is responsible for, and shall supervise the acts of, a mortgage loan originator or any other person who otherwise acts on behalf of the mortgage banker, or mortgage broker, or registered entity.

224.73

(2)(a) If the division suspends or revokes a mortgage banker's or mortgage broker's license, or a registered entity's registration, a mortgage loan originator may not act on behalf of that mortgage banker, or mortgage broker, or registered entity during the period of suspension or revocation.

224.73

(2)(b) A mortgage loan originator may act on behalf of only the mortgage banker, or mortgage broker, or registered entity with which that mortgage loan originator's license is associated in the records of the division, as designated under s. 224.725 (2) (d). A mortgage loan originator's license may only be associated with one mortgage banker, or mortgage broker, or registered entity at a time.

224.73

(3)(a) A licensed mortgage loan originator may apply, on forms and in the manner prescribed by the division, to transfer association to another licensed mortgage banker or mortgage broker or a registered entity. The division shall promulgate rules establishing a fee for a transfer application under this subsection.

224.73

(3)(b) A mortgage loan originator may not act on behalf of a mortgage banker, or mortgage broker, or registered entity until the mortgage loan originator's license association has been transferred to that mortgage banker, or mortgage broker, or registered entity in the records of the division.

224.73

(4) MORTGAGE LOAN ORIGINATOR SIGNATURES AND UNIQUE IDENTIFIERS.

(a) Every residential mortgage loan application shall be signed by a licensed mortgage loan originator or by a mortgage loan originator exempt from licensing under s. 224.726 (1).

(b) Any person originating a residential mortgage loan shall clearly place the person's unique identifier on all residential mortgage loan application forms, solicitations, and advertisements, including business cards or Web sites, and on all other documents specified by rule of the division.

(4) MORTGAGE LOAN ORIGINATORS AND BRANCH OFFICES

(a) A mortgage loan originator shall be assigned to and work out of a licensed or registered office of the sponsoring mortgage banker, mortgage broker, or registered entity. The licensed or registered office must either be the mortgage loan originator's residence or be within 100 miles of the mortgage loan originator's residence.

(b) Each mortgage banker or registered entity branch location that originates residential mortgage loans for itself or for another person, and each mortgage broker branch office, shall have at least one licensed mortgage loan originator assigned to and working out of the office.

(c) Any individual identified in the records of the division or the mortgage banker, mortgage broker, or registered entity as a branch manager for a mortgage banker or registered entity branch office that originates residential mortgage loans for itself or for another person, or a mortgage broker branch office, must be licensed as a mortgage loan originator.

224.74

(1)(a) Annual Mortgage call report. Each year, by the date and in the form required by the nationwide mortgage licensing system and registry, each mortgage banker, mortgage broker, registered entity, and mortgage loan originator licensed under this subchapter shall submit to the nationwide mortgage licensing system and registry an annual report of condition, which shall be in such form and shall contain such information as the nationwide mortgage licensing system and registry may require.

224.74

(1)(b) Audit requirement – Mortgage bankers. Each year, no later than 6 months following the end of its most recently completed fiscal year, each mortgage banker or mortgage broker shall submit a copy of an audit of the

mortgage banker's ~~or mortgage broker's~~ operations during that fiscal year. An audit under this paragraph shall be conducted by an independent certified public accountant in accordance with generally accepted auditing standards. The financial statements in the audit report shall be prepared in accordance with generally accepted accounting principles.

224.74

(1)(bm) *Reviewed Financial Statements – Mortgage brokers.* Each year, no later than 6 months following the end of its most recently completed fiscal year, each mortgage broker shall submit a copy of the mortgage broker's reviewed financial statements for the mortgage broker's operations during that fiscal year. The reviewed financial statements shall include a balance sheet, an income statement, and a written statement by an independent certified public accountant attesting that he or she has conducted his or her review in accordance with generally accepted accounting principles and AICPA professional standards.

224.75

(2) PERIOD OF RECORD RETENTION. A mortgage banker or mortgage broker shall keep for at least 36 months, in an office of the mortgage banker or mortgage broker licensed under this subchapter, but that is not located in a residence, all books and records that, in the opinion of the division, will enable the division to determine whether the mortgage banker or mortgage broker is in compliance with the provisions of this subchapter. These books and records include copies of all deposit receipts, canceled checks, trust account records, the records which a mortgage banker or mortgage broker maintains under sub. (1) (c) or (d), and other relevant documents or correspondence received or prepared by the mortgage banker or mortgage broker in connection with a residential mortgage loan or residential mortgage loan application. The retention period begins on the date the residential mortgage loan is closed or, if the loan is not closed, the date of loan application. If the residential mortgage loan is serviced by a mortgage banker, the retention period commences on the date that the loan is paid in full.

224.755

(4)(d) An individual may ~~retake~~ a test 3 consecutive times, with each ~~retest~~ occurring at least ~~retaken no less than~~ 30 days after the preceding test. If the individual fails 3 consecutive tests, the individual may not retake a test again for at least 6 months.

224.755

(4)(e) If an individual previously licensed as a mortgage loan originator fails to maintain a valid license for a period of 5 years or longer, not taking into account any time during which such individual is a registered loan originator, the individual shall retake the test under par. (a). For purposes of determining the 5-year period, the division shall not consider any period during which the individual is exempt from licensing under s. 224.726 (1).

224.77

(1)(f) Accept a commission, money, or other thing of value for performing an act as a mortgage loan originator unless the payment is from a the mortgage banker, or mortgage broker, or registered entity with whom the mortgage loan originator's license is associated, as identified in the records of the division at the time the act is performed.

224.77

(1)(fg) As a mortgage banker, ~~or mortgage broker, or registered entity~~, pay a commission, money, or other thing of value to any person for performing an act as a mortgage loan originator unless the mortgage loan originator's license is associated with the mortgage banker, ~~or mortgage broker, or registered entity~~ in the records of the division at the time the act is performed.

224.77

(1)(g) As a mortgage loan originator, represent or attempt to represent a mortgage banker, ~~or mortgage broker, or registered entity~~ other than the mortgage banker, ~~or mortgage broker, or registered entity~~ with whom the mortgage loan originator's license was associated, as identified in the records of the division at the time the representation or attempted representation occurs.

224.77

(1)(gd) As a mortgage banker, ~~or mortgage broker, or registered entity~~, permit a person who is not licensed under this subchapter to act as a mortgage loan originator on behalf of the mortgage banker, ~~or mortgage broker, or registered entity~~.

224.77

(1)(gh) As a mortgage banker, ~~or mortgage broker, or registered entity~~, permit a person whose mortgage loan originator license is not associated in the records of the division with the mortgage banker, ~~or mortgage broker, or registered entity~~ to act as a mortgage loan originator on behalf of the mortgage banker, ~~or mortgage broker, or registered entity~~.

224.77

(1)(sm) As a mortgage loan originator, fail to identify his or her name and sign the mortgage loan application for a loan originated by such mortgage loan originator.

224.77

(1)(sn) As a mortgage banker, mortgage broker, or mortgage loan originator, fail to clearly place his, her, or its unique identifier on all residential mortgage loan application forms, solicitations, and advertisements, including business cards, Web sites, email signature blocks, and on all other documents specified by rule of the division.

224.77

(1)(sq) As a mortgage banker, mortgage broker, or mortgage loan originator, use any solicitation or advertisement that:

1. Misrepresents that the provider is, or is affiliated with, any governmental entity or other organization; or
2. Misrepresents that the product is or relates to a government benefit, or is endorsed, sponsored by, or affiliated with any government or other program, including but not limited to through the use of formats, symbols, or logos that resemble those of such entity, organization, or program; or
3. Does not clearly and conspicuously identify the name of the mortgage broker or mortgage banker.

224.77

(2m)(a)1. In addition to any other authority provided to the division under this subchapter, if the division finds that a mortgage banker, mortgage loan originator, or mortgage broker has violated any provision of this subchapter or any rule promulgated by the division under this subchapter, ~~or a registered entity has violated any applicable provision of this subchapter~~, the division may do any of the following:

- a. Deny any application for initial issuance or renewal of a license ~~or registration~~.
- b. Revoke, suspend, limit, or condition any license of the mortgage banker, ~~registered entity~~, mortgage loan originator, or mortgage broker.

~~224.83 — Loan processors and underwriters. An individual engaging solely in loan processor or underwriter activities may not represent to the public, through advertising or another means of communication such as the use of business cards, stationery, brochures, signs, rate lists, or other promotional items, that the individual can or will perform any of the activities of a mortgage loan originator.~~

Gary, Aaron

From: Gary, Aaron
Sent: Tuesday, January 21, 2014 12:05 PM
To: Zikmund, Alison
Subject: RE: Mortgage bill changes

Thanks. I see that "registered mortgage loan originators" are actually registered with the NMLSR (not DFI), but I still think that the term is quite confusing when it is being created side-by-side with the "registered entity."

I'll await direction from DFI.

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Zikmund, Alison
Sent: Tuesday, January 21, 2014 11:26 AM
To: Gary, Aaron
Subject: RE: Mortgage bill changes

Aaron,

We are working with DFI to clarify the language. They will contact you directly today. Rep. Weininger would like to request that you incorporate any changes they recommend into the bill draft.

Thanks.

Alison Zikmund
Office of Rep. Chad Weininger
(608) 266-1184

From: Gary, Aaron
Sent: Tuesday, January 21, 2014 11:09 AM
To: Zikmund, Alison
Subject: RE: Mortgage bill changes

Hi Alison,

The parts in green were included in the materials DFI sent to me, which I assume DFI generated.

The materials from DFI relating to registered entities and registered mortgage loan originators are very confusing. I think the source of the confusion is the definition/term "registered mortgage loan originator," but perhaps I am misunderstanding DFI's intent with respect to the proposed changes.

As background:

Under current law, a mortgage banker, mortgage broker, and mortgage loan originator must generally obtain a license from DFI. However, there is a major exception for a depository institution (let's say a bank) and its employees. A bank does not have to be licensed as a mortgage banker/broker and its employees do not have to be licensed mortgage loan originators. (I believe that, under federal law, the state cannot require a national bank or other federally-chartered financial institution or its employees to hold such licenses and, as a matter of parity, the state gives the same treatment to state banks etc. and their employees.)

The proposed changes given to me by DFI allow a depository institution (which is not required to obtain a license) to voluntarily register with DFI and sponsor a licensed mortgage loan originator. Based on the last draft I did for you, LRB-3753, I assume the intent is to allow bank-owned insurance companies to sponsor licensed mortgage loan originators that are not employees but are contract agents. (If the individual were actually an employee of the depository institution, neither the employee nor the depository institution would be required to be licensed or registered at all.)

DFI's proposed changes also create a definition of, and use the term, "registered mortgage loan originator." At first, I thought that a "registered mortgage loan originator" must be an individual who works for a "registered entity." But the materials sent to me by DFI aren't structured that way. In fact, a "registered mortgage loan originator" doesn't seem to be registered in any way. The "registered mortgage loan originator" is not licensed and is just an exempt employee of a depository institution. In contrast, under the proposed changes, the registered entity actually sponsors a licensed mortgage loan originator.

Yes, this is very confusing. If my understanding is correct, I think we need to eliminate the definition of "registered mortgage loan originator" and deal with the concept in a different way. In addition to the confusion and the fact that the individual is not actually "registered" and is not sponsored by a registered entity, the term creates a host of other problems in this subchapter. If my understanding is incorrect, and the registered entity registers with DFI in order to sponsor an unlicensed mortgage loan originator, then the materials given to me by DFI are so flawed on this topic as to be mostly useless.

I got a call from the Speaker's office on this draft, so I know you must be anxious for it. Please provide some guidance so I can move the drafting forward.

Thanks. Aaron

Aaron R. Gary
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608.261.6926 (voice)
608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Zikmund, Alison
Sent: Tuesday, January 21, 2014 10:06 AM
To: Gary, Aaron
Subject: FW: Mortgage bill changes

Aaron,
Will you please add the changes in green in the attached document to LRB-3853? Rep. Weininger will now be the lead author on this proposal.

Thank you!

Alison Zikmund
Office of Rep. Chad Weininger
(608) 266-1184

From: Schacht, Nathan
Sent: Tuesday, January 21, 2014 9:52 AM
To: Zikmund, Alison
Subject: Mortgage bill changes

Everything in green needs to be added to mortgage bill.

Nathan Schacht

1/21

Sean Plake - mortgage bill
• 6-0447

• registered m.l.o. → commonly used term
• need to retain it

• registered entity → yes, it ~~is~~ sponsors
licensed m.l.o.'s

Gary, Aaron

From: Zikmund, Alison
Sent: Tuesday, January 21, 2014 3:02 PM
To: Gary, Aaron
Subject: RE: Mortgage bill changes

Thank you, Aaron. Please let me know if you are not able to make the revision.

Alison Zikmund
Office of Rep. Chad Weininger
(608) 266-1184

From: Gary, Aaron
Sent: Tuesday, January 21, 2014 2:55 PM
To: Zikmund, Alison
Subject: RE: Mortgage bill changes

I'll do what I can. The italicized language for (b) 2. really doesn't make a lot of sense. Somebody is apparently trying to pound a square peg (Truth in Lending Act) into a round hole (SAFE Act), and it just doesn't really work in this particular statute.

Aaron

Aaron R. Gary
Attorney, Legislative Reference Bureau
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608.264.6948 (fax)
aaron.gary@legis.state.wi.us

From: Zikmund, Alison
Sent: Tuesday, January 21, 2014 1:55 PM
To: Gary, Aaron
Subject: FW: Mortgage bill changes

Aaron,
Please also add this to the bill.

Alison Zikmund
Office of Rep. Chad Weininger
(608) 266-1184

Wis. Stat. § 224.71 Definitions. In this subchapter:

(6) (a) "Mortgage loan originator" means an individual who is not excluded by par. (b) and who, for compensation or gain or in the expectation of compensation or gain, does ~~any~~ of the following:

1. Takes a residential mortgage loan application; and
2. Offers or negotiates terms of a residential mortgage loan.

Wis. Stat. § 224.71

(b)2. add to the end of this section. An individual who performs real estate brokerage activities only and is licensed under s. 452.03, unless the individual is compensated by a lender, mortgage broker, or another mortgage loan originator or by any agent of a lender, mortgage broker, or another mortgage loan originator. *Such a person is not paid by a loan originator or a creditor if the person is paid by a loan originator or creditor on behalf of a buyer or seller solely for performing real estate brokerage activities. Such a person is not paid for a particular consumer credit transaction subject to § 1026.36 if the person is paid compensation by a loan originator or creditor, or affiliate of the loan originator or creditor, solely for performing real estate brokerage activities in connection with a property owned by that loan originator or creditor.*

Nathan Schacht
Office of State Representative David Craig

From: Zikmund, Alison
Sent: Tuesday, January 21, 2014 11:17 AM
To: Schacht, Nathan
Subject: FW: Mortgage bill changes

Bill drafter questions. See below.

Alison Zikmund
Office of Rep. Chad Weininger
(608) 266-1184

From: Gary, Aaron
Sent: Tuesday, January 21, 2014 11:09 AM
To: Zikmund, Alison
Subject: RE: Mortgage bill changes

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